

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

DAVID BARRON,

Petitioner,

: Case No. 1:23-cv-591

- vs -

District Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

WARDEN, Madison Correctional
Institution,

:

Respondent.

**RECOMMENDATION TO REOPEN JUDGMENT;
ENTRY SETTING RESPONSE DATE**

On August 15, 2024, while this case was still pending, Petitioner filed a new habeas petition under Case No. 2:24-cv-3848. Because on its face it was a second or successive petition, on August 20, 2024, the undersigned ordered it transferred to the Sixth Circuit Court of Appeals for that Court's consideration under 28 U.S.C. § 2244(b). Thereafter on August 24, 2024, Judge Dlott ordered the case dismissed with prejudice (ECF No. 42) and the Clerk entered judgment accordingly (ECF No. 43). Petitioner took no appeal and the time for doing so has expired.

On February 4, 2025, however, the Sixth Circuit held the new Petition should have been construed as a motion to amend the Petition in this case and remanded the matter "with instructions to consider the second petition as a motion to amend Barron's first petition." *In re David Barron*, Case No. 24-3734. To comply with the Remand Order, the undersigned has directed that the Petition in the second case be re-filed here and re-docketed. Per S. D. Ohio Civ. R. 7.2, Respondent

shall have until February 27, 2025, to file any opposition to the motion to amend it may wish the Court to consider.

To effectuate the Remand Order, the judgment in this case (ECF No. 43) should be reopened.

February 7, 2025.

s/ Michael R. Merz
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #